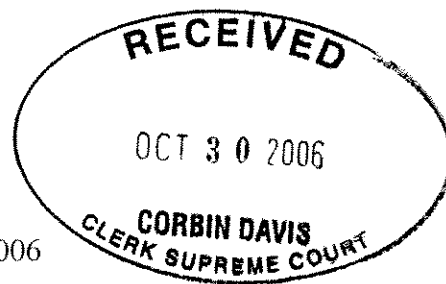




STATE OF MICHIGAN
THIRTY-NINTH JUDICIAL CIRCUIT

TIMOTHY P. PICKARD, JUDGE
ADRIAN, MICHIGAN



Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

October 26, 2006

RE: ADM File No. 2005-19, Proposed Amendment of MCR 2.513

Dear Clerk,

I am writing to comment on the proposed amendment of MCR 2.513(K) regarding juror discussion. The proposed amendment would allow jurors to discuss the evidence presented amongst themselves in the jury room during trial recesses prior to the presentation of all evidence, instructions and arguments.

I strongly appose this amendment. Frequently during the course of a jury trial, a juror, after selection, reports to the Court that they recognize a witness or a party in the case. Since this is discovered after the jury is sworn, the Court usually removes the juror as an alternate, by consent of the parties. Since jurors are not allowed to discuss the evidence presented until the conclusion of the trial, any tainted information possessed by the juror has not been passed on to other jurors.

Should the jurors be allowed to discuss the evidence prior to the conclusion of the trial, a juror who later recognizes a witness or party could convey that information and other tainted information to other jurors which would result in a mistrial. Increased mistrials would be costly and time consuming to the administration of justice.

Further, it is unfair and prejudicial to the parties involved in litigation to allow jurors to talk about evidence and possibly form opinions before all of the evidence has been presented. Jurors should have the opportunity to hear all of the evidence, arguments and instructions prior to discussing the case. This insures the fairest consideration of evidence by the jury.

Thank you for consideration of my comments. I remain.

Very truly yours,

Timothy P. Pickard
Circuit Court Judge